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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,156	01/03/2002	James T. Gourd	GOU 0101 PUS	7801

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EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

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DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/038,156

Applicant(s)

GOURD ET AL.

Examiner

Greg Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 09 July 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This Office action acknowledges the applicant's Amendment A, presented as Paper No. 3. Claims 1-23 are pending in the application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Drawings***

3. The drawings were received on July 9, 2003. These drawings are acceptable.

***Specification***

4. In light of the applicant's amendment, the objection to the specification is hereby withdrawn.

***Claim Rejections - 35 USC § 112***

5. In light of the applicant's amendment, the rejection of claims 15, 18, and 19 under 35 U.S.C. 112, second paragraph, are hereby withdrawn.

***Claim Rejections - 35 USC § 103***

6. Claims 1-6, 9, 11, 12, 14-18, 20, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Light et al (US 5,261,535) in view of Fryburger (US 2,828,008).

Regarding claim 1, Light et al discloses a retaining device (Figure 3, 12) with first side walls (20); first and second retaining walls (14, 16) forming an inner space (as shown, Figure 3), each retaining wall having an inner and outer surface (as shown, Figure 3); and first aperture (24) on first retaining wall (14) with a first lip (26). Light et al meets all limitations claimed by the applicant except:

Light et al does not disclose a second side wall.

Fryburger discloses a retaining device (Figures 4-6) with second side walls (33, 34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the retaining device of Light et al with a second side wall as taught by Fryburger in order to keep the retaining walls from separating during handling.

As to claim 2, the retaining device of Light-Fryburger discloses first and second side walls disposed in substantially parallel relationship (Fryburger, Figure 5).

As to claim 3, the retaining device of Light-Fryburger discloses second retaining wall (Light, 16) with second aperture (Light, 24) and second lip (Light, 26).

As to claim 4, the retaining device of Light-Fryburger discloses a plurality of first apertures and first lips (as shown, Light, Figure 3).

As to claim 5, the retaining device of Light-Fryburger discloses a plurality of second apertures and second lips (as shown, Light, Figure 3).

As to claim 6, the retaining device of Light-Fryburger discloses side walls with a length about the length of the object to be held, and first and second retaining walls in substantially parallel relationship (as shown, Fryburger, Figures 4-6).

As to claim 9, the retaining device of Light-Fryburger discloses outer surfaces of retaining walls (Light, 14, 16) that are substantially planar (as shown, Light, Figure 5).

As to claim 11, the retaining device of Light-Fryburger discloses side walls having a length less than the object to be held (as shown, Light, Figure 5).

As to claim 12, the retaining device of Light-Fryburger discloses apertures (Light, 24) with a width that is less than the length of the object to be held (as shown, Light, Figure 3).

Regarding claim 14, Light et al discloses a retaining strip (12, Figure 3) with first retaining wall (14) having a free edge and a first hinged edge (17), first aperture (24), and first lip (26); integral side wall (20) having first end (17) and second end (19), with first end (17) forming a first living hinge; and a second retaining wall (16) having a second hinged edge (19) forming a second living hinge. Light meets all limitations claimed by the applicant except:

Light et al does not disclose a free edge having a recess, a third living hinge, or a ridged side wall with a fourth end having a protrusion.

Fryburger discloses a retaining strip (Figure 4) with a first retaining wall (32), integral side wall (31), second retaining wall (30), and ridged side wall (33). First retaining wall (32) has a free edge (29) with recesses (36, 37), and ridged side wall (33) has protrusions (38, 39). Ridged side wall (33) and second retaining wall (30) form a third living hinge (26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the retaining strip of Light et al with a ridged

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side wall, third living hinge, and a protrusion-recess connection as taught by Fryburger in order to keep the retaining walls from separating during handling.

As to claim 15, the retaining strip of Light-Fryburger discloses first and second side walls disposed in substantially parallel relationship with the living hinges at four separate corners (Fryburger, Figure 5).

As to claim 16, the retaining strip of Light-Fryburger discloses second retaining wall (Light, 16) with second aperture (Light, 24) and second lip (Light, 26).

As to claim 17, the retaining strip of Light-Fryburger discloses a plurality of first and second apertures with first and second lips (as shown, Light, Figure 3).

As to claim 18, the retaining strip of Light-Fryburger discloses side walls with a length about the length of the object to be held, and first and second retaining walls in substantially parallel relationship (Light, Figure 3).

As to claim 20, the retaining strip of Light-Fryburger discloses outer surfaces of retaining walls (Light, 14, 16) that are substantially planar (as shown, Light, Figure 5).

As to claim 22, the retaining strip of Light-Fryburger discloses side walls having a length less than the object to be held (as shown, Light, Figure 5).

As to claim 23, the retaining strip of Light-Fryburger discloses apertures (Light, 24) with a width that is less than the length of the object to be held (as shown, Light, Figure 3).

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7. Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Light et al in view of Fryburger as applied to claims 1 and 14 above, and further in view of Woeber et al (US 2,881,914).

Regarding claim 7, the retaining device of Light-Fryburger as applied to claim 1 above meets all limitations claimed by the applicant except:

Light-Fryburger does not disclose side walls of differing lengths.

Woeber et al discloses a retaining device (Figure 6) with side walls (13, 15) of differing lengths. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the retaining device of Light-Fryburger with side walls of differing lengths as taught by Woeber in order to retain objects with a semi-conical shape. The examiner notes that since no object is positively claimed, the retaining device of Light-Fryburger-Woeber is capable of functioning as claimed by the applicant.

Regarding claim 19, the retaining strip of Light-Fryburger as applied to claim 14 above meets all limitations claimed by the applicant except:

Light-Fryburger does not disclose side walls of differing lengths.

Woeber et al discloses a retaining strip (Figure 6) with side walls (13, 15) of differing lengths. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the retaining strip of Light-Fryburger with side walls of differing lengths as taught by Woeber in order to retain objects with a semi-conical shape. The examiner notes that since no object is positively claimed, the

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retaining device of Light-Fryburger-Woeber is capable of functioning as claimed by the applicant.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Light et al in view of Fryburger as applied to claim 1 above, and further in view of Girona Alepuz (US 5,115,965).

The retaining device of Light-Fryburger as applied to claim 1 above meets all limitations claimed by the applicant except:

Light-Fryburger does not disclose a protrusion and recess for stacking.

Girona Alepuz discloses a retaining device (Figure 4) with protrusions (10) and recesses (9) for stacking. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the retaining device of Light-Fryburger with protrusions and recesses as taught by Girona Alepuz and claimed by the applicant in order to enable the devices to be stacked.

9. Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Light et al in view of Fryburger as applied to claims 1 and 14 above, and further in view of Gestetner (US 4,319,681).

Regarding claim 10, the retaining device of Light-Fryburger as applied to claim 1 above meets all limitations claimed by the applicant except:

Light-Fryburger does not disclose a retaining wall with a decline to complement the lip.



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Gestetner discloses a retaining device (10) with an aperture (24) having a lip (34) and a decline (20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the retaining device of Light-Fryburger with a retaining wall having a decline to complement the lip as taught by Gestetner in order to retain items of a fragile nature.

Regarding claim 21, the retaining strip of Light-Fryburger as applied to claim 14 above meets all limitations claimed by the applicant except:

Light-Fryburger does not disclose a retaining wall with a decline to complement the lip.

Gestetner discloses a retaining strip (10) with an aperture (24) having a lip (34) and a decline (20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the retaining strip of Light-Fryburger with a retaining wall having a decline to complement the lip as taught by Gestetner in order to retain items of a fragile nature.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Light et al in view of Fryburger as applied to claim 1 above, and further in view of Kobayashi (JP 05329239 A).

The retaining device of Light-Fryburger as applied to claim 1 above meets all limitations claimed by the applicant except:

Light-Fryburger does not disclose a first lip with a notch.

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Kobayashi discloses a retaining device (1) with a first lip having a notch (3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the retaining device of Light-Fryburger with a lip having a notch as taught by Kobayashi in order to reduce the force required to remove the retained object.

### ***Response to Arguments***

11. Applicant's arguments, see page 11 and 12, filed July 9, 2003, with respect to the rejection of claims 1-6, 9, and 12 under 35 U.S.C. 102(b) have been fully considered and are persuasive. The rejection of claims 1-6, 9, and 12 under 35 U.S.C. 102(b) have been withdrawn.

12. Applicant's arguments, with respect to the rejection of claims 1-23 under 35 U.S.C. 103(a), have been fully considered but they are not persuasive.

13. Regarding the applicant's argument that Light et al fails to show a lip extending into the inner space, Figure 4a of Light et al clearly shows lip (26) extending into the inner space.

14. Regarding the applicant's argument that Fryburger fails to show a free edge, while admittedly edge (29) is a fold line, the examiner notes that when placed in a finished, folded state, edge (29) forms an edge that is free, thereby meeting the definition of a free edge.

15. Applicant's arguments concerning Vajtay have been considered but are irrelevant since Vajtay has not been applied in any rejection.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 8:30 AM to 5:00 PM.

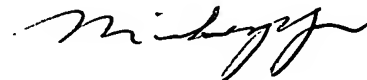
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Gregory Pickett  
Examiner  
September 23, 2003



Mickey Yu  
Supervisory Patent Examiner  
Group 3700